

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

MARJORIE FERRELL, *et al.*, )  
v. )  
Plaintiffs, ) No. C-1-01-447  
v. ) Judge Sandra S. Beckwith  
WYETH-AYERST LABORATORIES, ) Magistrate Judge Timothy S. Hogan  
INC., *et al.*, )  
Defendants. )

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**DECLARATION OF KENNETH A. WEXLER IN SUPPORT OF  
PLAINTIFFS' REPLY MEMORANDUM IN SUPPORT OF MOTION TO SUSPEND  
THE NOTICE DEADLINE PENDING THE COURT'S RULING ON PLAINTIFFS'  
MOTION FOR VOLUNTARY DISMISSAL WITH PREJUDICE**

I, Kenneth A. Wexler, declare as follows:

1. I am Co-Lead Counsel and one of plaintiffs' attorneys in this action. I have been attempting to negotiate a settlement of this matter with counsel for defendants, Gordon Dobie. I submit this Declaration in support of Plaintiffs' Reply Memorandum in Support of Motion to Suspend The Notice Deadline Pending The Court's Ruling on Plaintiffs' Motion for Voluntary Dismissal With Prejudice.

2. In opposition to plaintiffs' motion to suspend the notice deadline, defendants claim that plaintiffs have made no effort to develop a plan to disseminate notice to the subclasses. This representation is false and defendants know it is false.

3. First, plaintiffs have previously advised defendants that plaintiffs had retained the same firm used to develop a notice plan in *Blevins v. Wyeth-Ayerst Labs., Inc.*, a parallel action pending in Superior Court in California, to develop a notice plan in this action. Plaintiffs

likewise advised defendants that plaintiffs anticipated the notice plan to look substantially similar as the notice plan used in *Blevins*.

4. Second, during settlement negotiations I likewise advised Mr. Dobie that plaintiffs had not provided a notice plan to defendants because plaintiffs did not intend to issue notice to the subclasses because plaintiffs intended to voluntarily dismiss the claims of the named plaintiffs.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

May 12, 2006

/s/  
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